

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JUDY DOE NO. 1, et al.,

Plaintiff(s),

v.

WYNN RESORTS, LIMITED, et al.,

Defendant(s).

Case No. 2:19-CV-1904 JCM (VCF)

ORDER

Presently before the court is plaintiffs Judy Doe Nos. 1-9's motion to reconsider. (ECF No. 85). Defendants Wynn Las Vegas, LLC and Wynn Resorts, Limited responded. (ECF No. 89). Plaintiffs moved for leave to file reply, (ECF No. 93), to which defendants responded in non-opposition, (ECF No. 94).

As an initial matter, this court grants plaintiffs' motion for leave to file reply and heavily considers that brief in making its decision. (ECF No. 93). This court also finds that oral argument on the matter is unnecessary to its decision. (ECF No. 93-1).

Plaintiffs specifically seek reconsideration of this court's decision to dismiss their complaint without prejudice as opposed to granting leave to amend. (ECF No. 81). However, plaintiffs have already appealed this matter, (ECF No. 83), thus divesting this court of jurisdiction, *see Williams v. Woodford*, 384 F.3d 567, 586 (9th Cir. 2004); *Bejarano v. Gittere*, No. 2:98-CV-01016-GMN-NJK, 2020 WL 403719, at *2 (D. Nev. Jan. 23, 2020).

Federal Rule of Civil Procedure 62.1 dictates the options of this court in such situations:

(a) RELIEF PENDING APPEAL. If a timely motion is made for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the court may:

1 (1) defer considering the motion;

2 (2) deny the motion; or

3 (3) state either that it would grant the motion if the court of appeals
4 remands for that purpose or that the motion raises a substantial
issue.

5 (b) NOTICE TO THE COURT OF APPEALS. The movant must
6 promptly notify the circuit clerk under Federal Rule of Appellate
7 Procedure 12.1 if the district court states that it would grant the
motion or that the motion raises a substantial issue.

8 (c) REMAND. The district court may decide the motion if the
court of appeals remands for that purpose.

9 Fed. R. Civ. Pro. 62.1. Plaintiffs request that this court entertain their motion and issue an
10 indicative ruling per Rule 62.1(a)(3). (ECF No. 93-1). Indeed, it is within this court's discretion
11 to grant plaintiff's request, but this court exercises its discretion otherwise. *See* Fed. R. Civ. Pro.
12 62.1(a)(2). Plaintiffs' motion is denied. This court is disinclined to disturb the status quo
13 pending appeal.

14 Accordingly,

15 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that the plaintiffs' motion for
16 leave to file reply (ECF No. 93) be, and the same hereby is, GRANTED.

17 IT IS FURTHER ORDERED that the plaintiffs' motion for reconsideration (ECF No. 85)
18 be, and the same hereby is, DENIED.

19 DATED October 21, 2020.

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23 UNITED STATES DISTRICT JUDGE
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